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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/483,699	01/14/2000	Scott A. Deyoe	DP-302096	8714

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EXAMINER

ARMSTRONG, ANGELA A

ART UNIT PAPER NUMBER

2654

DATE MAILED: 12/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

11

Advisory Action

Application No.

09/483,699

Applicant(s)

DEYOE ET AL

Examiner

Angela A. Armstrong

Art Unit

2654

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 November 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Response to Arguments

1. Applicant's arguments filed November 11, 2002 have been fully considered but they are not persuasive.

Regarding claims 1, 16, and 33, applicant argues that there is no teaching or suggestion in Surace, Polikaitis or Everhart, which is directed, to determining whether voice input is associated with a specific user. The Examiner disagrees. Applicant is referred to Surace, col. 22, lines 52-54 in which Surace discloses the system allowing access to the system upon successful login and password. Thus, if the system can “distinguish one subscriber from another by a login and password,” then the system by necessity determines if the voice input is associated with one subscriber or another.

Applicant further argues that there is no teaching or suggestion in Surace, Polikaitis or Everhart that is directed to using a user specific time period to determine when to provide adaptive voice feedback to a specific user associated with the user specific time period. The Examiner disagrees. Applicant is referred to Polikaitis, col. 2, lines 46-48; col. 1, lines 44-51; and col. 9, lines 35-52.

Applicant further argues that there is no teaching or suggestion in Surace, Polikaitis or Everhart that is directed to providing adaptive voice feedback that is level dependent and that provides available commands for a current level. The Examiner disagrees. Applicant is referred to Surace, col. 10, lines 47-59 in which Surace discloses the system provides context-sensitive help which can include available options, the present state of the system, and an explanation of what the user can currently instruct the system to do at the current stage of operation.

Art Unit: 2654

Regarding claims 2, 17, and 34, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

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